

JOHN L. MERSEREAU—HEIRS OF.

[To accompany Bill H. R. No. 737.]

MAY 18, 1860.

Mr. DELANO, from the Committee on Revolutionary Pensions, made the following

REPORT.

*The Committee on Revolutionary Pensions, to whom was referred the memorial of John L. Mersereau, praying for a pension in consideration of his services as a soldier of the revolution, report:*

That the original petitioner in this case, John L. Mersereau, sometimes called John Mersereau, first made his application for a pension and filed his proofs in the year 1840, being then eighty-three years of age. He died on or about the 18th of May, 1841, leaving several children, and the claim for the pay to which he was by the pension laws entitled is now renewed by the husband of his daughter, who is also his administrator, and who seeks the relief prayed for on behalf of all the surviving children of the said John L. Mersereau.

The only ground taken at the Pension office for rejecting this claim is understood to be that the *original memorialist having deceased before any decision granting the pension prayed for*, the department, under the construction of the law given by the present Attorney General, cannot award the pension to his surviving children. The committee, however, in their adjudications upon cases similar to this, have not felt constrained to follow this rigid construction of the revolutionary pension laws. It is well known to differ essentially from the construction given by former Attorneys General to the same acts, and they believe that the rule which they propose to follow, while it is more liberal than that rigidly adhered to by the department, is at the same time more just as applied to the great majority of cases coming before Congress. That rule is this, viz: that wherever the service of the soldier entitling him to a pension is duly and fully proved, and the soldier in his lifetime has made formal application to the proper department or to Congress for his pension, but pending the delays incident to the progress of his application has died, in such case the mere fact of his decease shall not be taken advantage of by the government or by Congress to withhold the bounty which otherwise under the pension laws would belong to him.

To adopt a different rule would be to subject the government and Congress to the suspicion of intentionally suspending the examination and decision of these ancient claims for no better purpose than to defeat them; in other words, of contriving delays which shall outlast the waning lives of these relics of our revolutionary epoch. A just government will be unwilling to incur even the suspicion of such a motive, however ill founded.

The committee therefore propose in a case of the above description to let in the surviving children to receive that which the deceased soldier was himself taking steps to realize, and the present application falls within this class of cases.

This soldier, John L. Mersereau, in virtue of whose services the claim is now revived, died in 1841, having made his application in 1840. The formal proofs of his service and duration of service are ample. He was at first employed some two years prior to 1778 as a spy, while the British troops held possession of Long Island, and conducted himself in this delicate branch of volunteer duty to the satisfaction of his commanding officer and the advantage of the American cause. Having become an object of suspicion to the enemy, he was transferred to the barracks at Rutland, Massachusetts, where he served as deputy commissary of prisoners, under his father, Joshua Mersereau, who was assistant commissary general; also with his brother, Joshua Mersereau, jr., who was likewise a deputy. Numerous letters are furnished, written at the date of his service at the barracks, addressed to him officially by his military associates, and having reference to the business of his office. He continued acting in the capacity of deputy commissary for not less than twenty (20) months. After the close of the war he was appointed, in 1791, a surrogate for the county of Tioga, State of New York, by Governor George Clinton, and again, in 1798, by Governor John Jay, a surrogate of the county of Chenango, New York.

Had this application been promptly granted in his lifetime he would have received at least five-sixths of the full pay of an officer of the grade above mentioned from the 4th of March, 1831; and the committee, in conformity to the principles and results above indicated, recommend the passage of the accompanying bill.